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US Fish & Wildlife Service
CCFOW, Arcata, CA

November 9, 1998

Dr. Bruce Halstead
USFWS
1125 16th St. Room 209
Arcata, CA 95521

Dear Dr. Halstead:

Please enter these comments into the record for the Pacific Lumber Company's proposed "Habitat Conservation Plan" reference permit #s PRT-828950 and 1157.

First, let me say that I am very suspicious about how the Headwaters agreement came about. Charles Hurwitz, feeling nervous about the progress of the various federal lawsuits against him, called together a few politicians who are dependent on his generous campaign contributions, locked them in a back room with no daylight and no public access, wore them down over a period of months at the bargaining table, then, after they have lost their voices, their patience, and their strength to fight, he unveiled his dream plan which has now become the Headwaters Agreement. Where were the representatives of the workers during this process? Locked out! Where were the several grass roots groups such as EPIC (the Environmental Protection Information Center, Garberville, CA), BACH (San Francisco Bay Area Coalition for Headwaters) Greg King (one of the original group of activists who surveyed the property in 1986 and a long time critic of Charles Hurwitz)? Locked out in the cold with the rest of us! Where were the taxpayers who will likely face years of multi-million dollar law enforcement activities during the years of civil unrest caused by this agreement? Locked out in the cold with the rest of us! Where were the news media who wanted to cover the story? Locked out in the cold with the rest of us with nothing more to report than their mantra repeated steadily over the summer of 1996: "... negotiations are under way but no details have been announced."

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Given the lack of critical evaluation and public involvement, it comes as no surprise that the tentative partial agreement is sorely lacking. Far from resolving the problems caused by a decade of Hurwitz rule, it promises to escalate them.

Introduction:

After viewing the draft of Pacific Lumber's Habitat Conservation Plan, I am reminded of the traveling horse traders of the old west. A horse trader makes his living by selling horses which look fine at first glance but which have defects he knows you will discover after he has left town. When the horse goes lame on the third day, the horse trader is long

gone and laughing all the way to the bank. Likewise, when citizens find out the flaws in this HCP, Pacific Lumber will have its license to kill and its no surprises clause. There will be no recourse except direct action. There are only ways to deal with horse traders: tar and feather 'em, or run 'em out of town. The reader would do well to remember this analogy in reading comments to this HCP and associated documents.

I can only conclude that this Plan is nothing but smoke and mirrors; an attempt to give the appearance of science while paving the way for devastation and destruction. In my comments, I intend to expose Maxxam's legacy of lies, deception, and hocus pocus. I intend to show that the Company's claim to "the best available science" is nothing more than lip service. I will further point out specific problems with the HCP, especially the omission of information regarding Maxxam's past failures to protect the environment. Lastly, having established a basis, I will outline the only conclusion a reasonable person can come to; that Maxxam and the management of Pacific Lumber Company are compulsive liars and habitual criminals who cannot be trusted to obey even the most basic environmental law. Most distressing of all, this Plan would trust Pacific Lumber to enforce the law on themselves. A task of which they are entirely unworthy as will be discussed below.

As for my qualifications and motivation, I hold a Bachelor of Science in Environmental Engineering from Humboldt State University and have lived in Humboldt County since 1988. I became involved in forestry issues locally in 1989 after learning of Maxxam's rapacious practices. Except for occasional reimbursements for expenses, I have never been paid for my activism and, like most activists, I do it out of my commitment to justice and concern for my community.

In the interest of clarity and because my comments quote heavily from other sources, I have put my writing in Times New Roman font and other sources in Arial font. The numbers refer to paragraphs of the Judge's opinion.

Maxxam's Legacy of Lies:

There is no basis for Maxxam's claims of "the best available science." Lies are a way of life for this company and appear in all of its voices and writings. They routinely lie, mislead, withhold information, falsify "scientific" documents, and intimidate researchers. If the California Department of Forestry (CDF) would do its job, these lies would be exposed and Maxxam would be in no position to file for an Incidental Take Permit (ITP). The most compelling illustration of the "Maxxam method" is *Marbled Murrelet vs. Pacific Lumber* (U.S. Court Northern California Division #C-93-1400-LCB, 1993). This case represents the most exhaustive and comprehensive view of Pacific Lumber's practices with regard to science.

In accordance with scientific procedure, I will leave my words to a minimum and enter the following excerpts from the opinion of Judge Louis C. Bechtle directly into the record:

Falsifying Records:

In *Marbled Murrelet vs. Pacific Lumber*, the Environmental Protection Information Center (EPIC) sued PL over a timber harvest plan (THP) which was approved on the condition that PL conduct marbled murrelet surveys in the area according to the Pacific Seabird Group (PSG) protocol which is widely accepted as the best available science. PL agreed to the condition and hired two "experts" Speich and Kerns and their respective companies Natural Resources Management and Wildlife Resources Management to do the work. Judge Bechtle was not impressed:

At paragraph 84, Judge Bechtle states:

84. "On the second day of trial, August 16, 1994, Pacific Lumber revealed for the first time that its two principle survey contractors kept two different sets of survey sheets for the marbled murrelet surveys conducted in THP-237 during 1992. ... WRM "replicated" the original data onto a second set of survey sheets; and Pacific Lumber turned over the second set of sheets to the DFG on July 31st, 1992. ... "During the trial, Kerns testified that the original survey sheets were recently uncovered in his closet at home, which he referred to as WRM's "archives."

85. "Further examination of the original NRM data sheets reveals that Pacific Lumber did more than "replicate" data from one set of survey sheets to another."

(The judge makes references to information noted on the original sheets by field surveyors about weather conditions, predators, degree of canopy coverage, and suitability of survey stations; all of which affect murrelet detections.)

... "Nearly all of these comments were deleted or altered before the data was (sic) 'replicated' onto the second set of survey sheets that Pacific Lumber submitted to DFG."

86. "Pacific Lumber's performance concerning the reworking and withholding of the original survey data sheets materially weakens the "no detection" premise that Speich and Kerns rely on for their opinions concerning occupancy. Consequently, these opinions are not sufficiently persuasive to dislodge that EPIC has satisfied its burden of proof.

Intimidating Researchers:

footnotes 35 and 36:

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35. "During the trial, Penney testified that after he was finished surveying at station 6 on July 11, 1994, he was called at home by Tad Diaz, the head surveyor for WRM's marbled murrelet team, and told that he would have to go back to station 6 the following day to "review" his detection. According to Penney, Diaz told him that the detection was a "real big deal" and "the lawyers would be all over this." On July 12, 1994, Penney was made to revisit the sight and write out a narrative of his detection. During the drive back to station 6, Diaz told Penney there was "politics involved in the marbled murrelet study at THP 237" and "there's a lot of money tied up in this stand." While at station 6, Diaz told Penney that ground searches would be conducted in the area of station 6, but he said "we'll probably lose our contract if we find anything." Penney was also told not to tell anyone of his conversation with Diaz. In spite of what was obviously an attempt on behalf of Pacific Lumber to encourage Penney to reconsider his July 11, 1994 detection, Penney's account of this detection has never wavered."

36. "One week after Penney observed the marbled murrelets flying below the canopy at Station 6, Penney detected the bird's distinctive wing beats, another indication of "occupied behavior," while surveying in Owl Creek. Penney indicated this detection on his survey form, however, when (he) attempted to hand in the form to WRM, he was told by his supervisor, John Eldridge, that he was not allowed to write down a detection unless he actually saw a marbled murrelet or heard it vocalizing. Penney had to fill out a second survey sheet, this time omitting any reference to his detection of the marbled murrelet's distinctive wing beats."

Mixing Science with Money and Politics:

61. "On September 28, 1992, the marbled murrelet was listed as a "threatened species" under the ESA (Endangered Species Act). During October and November of 1992, Pacific Lumber was informed by various employees of the USF&WS that logging in Owl Creek pursuant to THP-237 would likely cause a "take" of marbled murrelet habitat in violation of the ESA."

62. "On November 24, 1992, the eve of the Thanksgiving holiday, Pacific Lumber again began logging THP-237 at the direction of its president John Campbell. During the trial, Pacific Lumber's logging manager, Dan McLaughlin, testified that one of the reasons the company conducted logging operations in THP-237 over the holiday weekend was because of the company's fear that it 'might be stopped again.'"

Pacific Lumber's pseudo science did not escape the eye of Judge Bechtle.

81. "Pacific Lumber's 'no detections' argument unsuccessfully attempts to sidestep a fundamental flaw in the manner in which Pacific Lumber has dealt

with the task of evaluating the potential presence of marbled murrelets in Owl Creek. Quite simply, Pacific Lumber's marbled murrelet surveys were not conducted by an independent and impartial third party using the scientific method to determine whether the Owl Creek stand is occupied by the marbled murrelet. ... (Pacific Lumber's head of forestry operations Tom) Herman admitted that the purpose of Pacific Lumber's marbled murrelet surveys was to let the Company continue its harvest operations."

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87. Finally, the court finds that Pacific Lumber's expert witnesses, Speich and Kerns, lack objectivity and credibility. Both Speich and Kerns have been paid substantial sums of money to conduct marbled murrelet research on behalf of the Company, and to act as advocates for Pacific Lumber in various forums. ... Since 1990, Pacific Lumber has paid Kerns' firm, WRM, nearly one million dollars to conduct marbled murrelet research for the Company. ... Since 1992, Pacific Lumber has paid Speich's consulting firm in excess of \$250,000 for Speich's work regarding the marbled murrelet. Also, Speich's recent publications on the marbled murrelet have been funded either by Pacific Lumber or by the paper industry."

88. "Additionally, the expert reports of both Speich and Kerns were written with substantial input from Pacific Lumber's attorneys." ... "Pacific Lumber attorneys gave Speich detailed instructions about what he should state in a sworn declaration that Pacific Lumber submitted to the California Court of Appeals." ... "In a letter dated December 1, 1992, Pacific Lumber's attorney, Frank Bacik, stated:

[T]he declaration should be simple and direct, stating that under your review of the facts and circumstances the Owl Creek Plan area is not an active murrelet site or 'occupied' by murrelets that will be directly 'taken.'"

More on Unscientific Methods:

41.¹⁶ Pacific Lumber directed when, where and how the marbled murrelet surveys in THP-237 were to be taken by WRM and NRM. Pacific Lumber's chief of Forestry Ray Miller was put in charge of the marbled murrelet surveys, and he managed the surveys 'as part of managing our timber.' Pacific Lumber instructed its surveyors not to record a marbled murrelet unless they were '100 percent' certain that they had actually observed a murrelet. Additionally, Pacific Lumber's surveyors were instructed not to record a detection if they heard only one 'keer' call, or if they heard the marbled murrelet's distinctive wing beats."

63. "During the 1993 survey season, Pacific Lumber concentrated most of its survey efforts in the southwestern portion of the Owl Creek stand. Not

surprisingly, many of the marbled murrelet detections recorded in 1993 were observed in this portion of the forest. In addition, Pacific Lumber failed to conduct marbled murrelet surveys in Owl Creek for a period of 71 consecutive days. This was clearly a violation of the PSG Protocol."

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82. "Additionally, there is sufficient evidence in the record for the court to find that Pacific Lumber administered its marbled murrelet surveys at THP-237 with the intent to either avoid detecting marbled murrelets or, to the extent that making detections could not be helped, to grossly understate the marbled murrelet's presence in THP-237. Despite the Board of Forestry's expressed condition of approval, Pacific Lumber's marbled murrelet surveys were never conducted in accordance with the PSG Protocol. Moreover, Pacific Lumber's utilization of the following methods to conduct marbled murrelet surveys at THP-237 provides clear evidence that the Company's marbled murrelet surveys were either designed to fail to detect marbled murrelets, or they were administered with indifference as to whether the required procedure would be used or not:

(a) Pacific Lumber's employees decided where the survey stations would be located and when they would be manned.;

(b) only four survey stations were located in the proposed harvest area itself, and only two survey stations were located on the western edge of THP-237 - the direction from which the birds could be expected to fly from the sea and into the stand;

(c) in direct contradiction to the PSG Protocol, survey stations were located near loud noise sources, and a substantial number of surveys were conducted in adverse weather conditions, which were known to inhibit the surveyors' ability to detect murrelets;

(d) in 1992, Pacific Lumber harvested in THP-237 during the middle of the nesting season, at the very beginning of the peak period for marbled murrelet detectability;

(e) in 1993, 71 consecutive days were allowed to elapse between surveys;

(f) despite the fact that Pacific Lumber's surveyors were trained to be able to audibly detect the marbled murrelet and were certified by the State of California, as being able to do so, Pacific Lumber's survey managers instructed the company's field surveyors that they were not to record detections of single marbled murrelet "keer" calls, or detections of the marbled murrelets' distinctive wing beats or "jet sounds;"

(g) two surveyors who recorded visual detections were interrogated by their supervisors, on the surveyors' own time, under circumstances that appear to have been calculated to persuade the surveyors to change or delete marbled murrelet detections that were contrary to Pacific Lumber's interest; and

(h) Pacific Lumber never conducted ground searches for egg shell fragments in THP-237 until July 1993, and it never conducted ground searches

in the proposed harvest area until July 14, 1994, after Penney observed two marbled murrelets flying below canopy level at Station 6."

83. The weakness of Pacific Lumber's "no detection argument is further demonstrated by the fact that Pacific Lumber has never fully complied with the Board of Forestry's requirement that it "share" information..."

71. "...Under the PSG protocol, Penney's detection indicates that the proposed harvest area of THP-237, which is adjacent to station 6, is "occupied" by the marbled murrelet."

Unscientific conclusions:

Based on the unscientific procedures outlined above, Pacific Lumber made the following conclusions:

Chief of Forestry Ray Miller stated in a June 18th, 1992 letter to the California Dept. of Fish and Game:

42. "As you will note from review of the data, no activity sites were found to exist anywhere within the Plan area (THP-237). Since there is no evidence that the THP area contains an active murrelet site or possesses the potential to impact a murrelet as provided in 14 CCR 1036.1 [sic], additional consultation with Fish and Game is not necessary, and timber operations will be commenced."

Because PL timed the letter to arrive on a Saturday, the second day of logging, they were able to get in five days of tree falling before they were shut down by CDF. In addition to being illegal, this was during the peak of nesting season when they were supposed to be surveying for murrelets. Underhanded as this sounds, it gets worse. Over Thanksgiving weekend of 1992, PL again sent its falling crews into THP-237. The order came from President John Campbell and was a clear violation of a court order. If not for the efforts of a few brave activists who literally put their bodies in front of chainsaws, the massacre would have been much worse.

After Judge Bechtle delivered an appropriately harsh ruling in the case, Pacific Lumber appealed and lost. They then appealed to the U.S. Supreme Court and were rejected without comment. The relevance of *Marbled Murrelet vs. Pacific Lumber* to the proposed HCP is critical:

First, because of the time and expense involved in litigation, this is the most comprehensive examination of Pacific Lumber's "scientific" procedures. As is pointed out above, they simply don't measure up. Perhaps if government agencies would invest in enforcing the law on Pacific Lumber instead of giving away half a billion dollars, there would be more scrutiny and more such decisions.

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Second, *Marbled Murrelet vs. Pacific Lumber* demonstrates PL's willingness to lie, cheat, "cook the books," and seriously compromise its science for the sake of profit.

Third and most disturbing, the HCP includes marbled murrelet surveys from 1991 to 1997 (see Vol IV, Marbled Murrelet Plan p. 2). Although PL did not include its raw data in the HCP, it appears very likely that Speich and Kern's faulty data from Owl Creek were used in developing the HCP. Map 9 in the marbled murrelet plan (vol. IV) appears to be consistent with the falsified report forms cited above. Moreover, John Campbell is still President, Tom Herman is still Head Forester, and Speich's firm Natural Resources Management (NRM), is listed as a member of the Plan Preparation Team, as is attorney Frank Bacik who forced his words into Speich's "scientific" opinions (see vol. 1, pp 91&92).

Other Cases:

The following cases demonstrate not only that Pacific Lumber needs a great deal of help interpreting regulations, but that the Company has quite a cozy relationship with the CDF which is supposed to be regulating it. They also show that *Marbled Murrelet vs. Pacific Lumber* is not an isolated case but is part of a pattern and practice of faulty science by Pacific Lumber and weak enforcement by CDF.

EPIC v. MAXXAM

EPIC's first suit against the Pacific Lumber Company resulted in a court finding that the California Department of Forestry had not only 'rubber-stamped' the THPs, but had intimidated the Department of Fish and Game and the Regional Water Quality Control Board staff from making any comments critical of THPs. Status: final - THPs inadequate. THP #1-87-240 HUM, 1-87-241 HUM, 1-87-230 HUM, Humboldt Ct. #79879. 1987.

SIERRA CLUB AND EPIC v. IMBODEN AND CDF ("Owl I")

EPIC challenged Pacific Lumber's plan to log 226 acres of an unentered old-growth redwood/Douglas fir grove in the Owl Creek drainage without implementing the wildlife mitigations requested by the Department of Fish and Game. This THP was planned for an area containing marbled murrelet nesting sites and which was in close proximity to the area later litigated in EPIC v. Pacific Lumber. Status: final - THP inadequate. THP 1-88-515 HUM Humboldt Ct. #83428, 1988.

EPIC AND SIERRA CLUB v. CDF ("All Species Grove")

The California Department of Forestry approved a THP in which Pacific Lumber refused both to conduct site-specific wildlife surveys and to incorporate mitigations proposed by the Department of Fish and Game. The proposed logging plan would have cut 186 acres of unentered old-growth redwood and Douglas fir at the confluence of Bell and Lawrence Creeks in the Headwaters Forest complex. Status: final - Pacific Lumber withdrew THP. THP 1-90-069 HUM Humboldt Ct. #90CP0341. 1995.

REDWAY FOREST DEFENSE ET. AL. V. CDF

This case was brought by local citizens concerned about a THP near Redway, CA. The Honorable Anthony Edwards found "[T]hat California Department of Forestry failed to adequately review and adopt feasible mitigation measures and reasonable alternatives..." Judge Edwards further found that "CDF committed an abuse of discretion in approving the THP based on the facts and evidence it had before it." CDF was ordered to withdraw its approval of THP 1-96-036-HUM. Status: final - THP inadequate. 1997.

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Comments on the HCP:

It is unfortunate that the HCP was not made widely available. For a deal worth half a billion dollars, the Company should at least be required to make a copy for every branch library so folks like me won't have to travel to Fortuna or Eureka to see it. Because of the distance involved, I spent only about an hour studying the document. That said, I have found it to be so riddled with flaws, omissions, and inaccuracies that its conclusions cannot be trusted. Below are a few.

General Flaws:

The document often uses the language of wishing;

"PALCO believes that..."
"It is likely that..."
"The model predicts that..."
and
"...potentially would increase/decrease."

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The plan goes on to hang very serious consequences on these assumptions. What if the assumptions are wrong? What if the model is flawed? What if they fudged their data (see Judge Bechtle's ruling above)? Computer models are only as good as the data upon which they are based. In addition, the Company is attempting to extrapolate more than a century into the future, the results of logging at unprecedented levels which are not fully understood in the present. What if it turns out that new impacts are discovered down the line? Too late! The Company will have its license to kill and no surprises clause. We probably won't even get an apology much less any sort of compensation.

Further, PALCO is asking for a permit to kill dozens of species which they have not even studied, and given their wretched performance and lack of government oversight regarding the murrelet, even the studies they have done are highly suspect. It is cause for alarm that the government is willing to lock these unscientific methods in place for the next fifty years. Given PL's incorrigible habit of putting profit before science, a more prudent approach would be for the government to study wildlife, water, and other public resources on PL land and send PL the bill.

Specific Comments:

Volume 1 page 34 states: "The amount of old growth in the bio-region also potentially would increase." ... "Potential adverse impact from the reduction in old growth will be minimized and mitigated primarily by the conservation of old growth and buffer zones under the Headwaters Agreement..."

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This amounts to having your cake and eating it too. Under the terms of the deal, Pacific Lumber will sell some 10,000 acres to the government thereby giving up its interest in said property. Yet they think they have the right to claim credit for this land as preserved habitat even though any preservation would be done by the government using taxpayer dollars. Does it seem reasonable that PL should be allowed to claim credit for preserving land they have abandoned and been paid for many times over? If PL wants to claim credit for preserving Headwaters Grove et. al. then PL should foot the bill. Further, PL should not be allowed to benefit from the "potential" for increase in old growth acreage in the bio-region, presumably on public lands.

Volume 1 page 34 paragraph 3 states that "Old growth Douglas fir stands ... are conserved on a long term basis throughout the Plan period."

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This conclusion is not supported, and, in fact, is entirely contradicted by maps 5, 21, 22, 23, and 24 which show these stands will suffer the same fate of most of PL's holdings.

Volume 1 page 35 section e 3) states: "...no significant adverse change will occur to general scenic views." ... "Harvesting like that proposed in the Plan has been part of the landscape in Humboldt County for over 150 years." In truth, the change will be devastating, especially to those who depend on scenic beauty for their livelihood. Moreover, this county has never seen anything near the scale and ferocity of Maxxam's rape and run logging practices. In fact, map 20 (first decade harvest) shows massive clearcuts along the Eel River from Pepperwood to north of Rio Del. Freshwater will be devastated, the ridge west of Redway will be clearcut, as will a huge tract east of Weott. These changes are both adverse and significant but are dismissed in the Plan.

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Volume 1 page 39 section 4) states: water quality monitoring along with specific measures "are expected to result in a trend of non-degradation or improvement of these (watersheds)." This hardly seems reasonable given PL's poor record on monitoring, flagrant violations of the FPA and other laws, and given the plight of most of the creeks on its property. Why should we expect them to do better under even less scrutiny?

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Volume 1 page 39 section 6) points out that PL's work force will dwindle to 844 in the first half of the next century. So much for PL's claim to fame of providing jobs.

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Map 11 claims to show land slide hazard areas over PL's holdings yet it doesn't show the Redway slide. The Company ought to remember this slide. It dammed up the Eel River in 1981 traumatizing local residents, tearing away river front, and flooding lower Redway. To further ingrain the slide in the corporate psyche, residents sued the Company settling out of court for \$300,000. So why was this slide omitted from the map? I happen to know this slide because I live in Redway, but I wonder how many other slides were omitted. Once again, it begs the question: Can the Company be trusted to generate its own maps and data? If it should be discovered later that slides existed but were not included on the map, too bad! They have their license to kill and no surprises clause.

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Map 12 claims to show surface erosion hazard ratings yet, once again, this map doesn't show the erosion-prone area of Redway.

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Map 16 shows some of the salmon streams yet doesn't show Coho salmon in Sulfur Creek which is known to have Coho.

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Conclusion: Take a stand!

Remember the image of the horse trader. This criminal corporation must not be allowed to ram this faulty and unscientific HCP down our throats and ride away laughing. The only way to ensure justice is to deny this plan. Don't revise it, don't mitigate it, don't make compromises. Just deny it outright! You don't want to get stuck with a nag, and neither do we.

I have pointed out some of Pacific Lumber's shady dealings with regard to science, I have shown that some of this flawed science has likely made it into this HCP, I have pointed out problems and omissions which can only lead to the conclusion that the data upon which the Plan's conclusions are based are incomplete and, therefore, the conclusions must be thrown out. Now I ask you the reader to take a personal stand. Whether you are a government official, a citizen, an activist, or a community member, I challenge you to engage in an act of conscience, a personal act of defiance. I ask you to stand with the residents of Humboldt County who have endured a decade of insults from Charlie Hurwitz and his Maxxam raiders. I ask you to stand with the timber workers who have watched helplessly, unable to speak out against the big boss, as he has closed their mills, raided their pension fund, raped their forest, and now has them wondering where they will work when the trees are gone. I ask you to stand on the side of justice and on the side of government of the people, by the people, and for the people. Most important of all, I ask you to side with the children. They deserve a future with meaningful employment, strong communities under local control, a land worth living in, and a quality of life that is fulfilling and sustainable. On their behalf, do what you can to defeat this bogus and unscientific Plan. Our children deserve nothing less.

Appendix I.

To further expose the legacy of lies under Maxxam rule, I include an article which appeared in *Voices of Humboldt County* in August or September of 1998.

Debunking the Maxxam Myth.

By Dan Fortson

Fairness and accuracy. These principles are the very foundation of responsible journalism. Accordingly, in the interest of fairness, I present, in its entirety, Pacific Lumber Spokeswoman Mary Bullwinkel's recent speech before the California Board of Forestry. In the interest of accuracy, I have footnoted these comments to correct the myths, misrepresentations, and outright lies.

The speech:

My Name is Mary Bullwinkel. I am the Spokeswoman for the Pacific Lumber Company and on behalf of my company, I'd like to thank the members of the Board and the staff for coming to the North Coast to learn first hand about the issues that face our community. We very much appreciate the opportunity to participate in the field trip on Monday in Freshwater and Elk River, and we have prepared a booklet of information which was pertinent to the stops on the tour. If you did not obtain a copy of that, we do have additional copies. Material in that booklet provided notes and charts and information to document the presentations made by Pacific Lumber Company representatives. In response to a question by one of the Board members regarding habitat enhancement projects in Freshwater, there is a page in the booklet which refers to that very subject.

I believe Pacific Lumber Company is at a very significant juncture in its nearly 130 year old history¹. On Monday's field trip, you did see some activities that represent the future of forestry on our property². We've already begun implementing the Habitat Conservation Plan (HCP) and Sustained Yield Plan (SYP) even though that document is in draft form³. We're confident that the science-based⁴ approach to managing our property will put us in a lead role in resource protection⁵. As I'm sure you all realize, we are a diverse community with a variety of viewpoints, and resource issues locally have always generated lively discussions. We realize that everyone is entitled to their own opinion, and that there will always be a few among the public that dislike Pacific Lumber⁶. We do regret this, but we believe that the path that we have chosen to follow now will help us regain the trust of our neighbors. We are extremely serious about our commitment to be a good neighbor⁷, and to be a good steward of the land⁸. We've established lines of communication to address issues of local residents who live in the watersheds in which we operate⁹. We (intend) to continue meeting with our neighbors and providing them with the information that they need so their questions can be answered¹⁰. Again we appreciate the opportunity to meet with the Board of Forestry in our own back yard and we look forward to addressing these issues on a local level so the board can get on to addressing and focusing attentions of other matters of statewide importance¹¹. I see a bright future for the Pacific Lumber Company in Humboldt County¹². I see us growing forests¹³ under a long term Sustained Yield Plan, also protecting fish and wildlife under a science-based Habitat

Conservation Plan¹⁴ and I see us continuing our contribution to the economic well-being of the North Coast¹⁵. Thank you¹⁶.

Response from the Board:

Sadly, not one of the Board members called Ms. Bullwinkel to task. In fact, the only comment of substance was that the Company could do a lot better job in its public relations efforts.

Footnotes:

1. According to researcher Bob Martel, the old PL, chartered under Maine law in 1869 was dissolved in 1986 after the Maxxam takeover. The current company was chartered under Delaware law in 1986 and, except for its name, bears little resemblance to its more benign predecessor.

2. In case you missed it, drive by Scotia some time. Just south of town you'll see several plots of fast growing pecker poles planted like corn in rows and harvested by one man in a machine called a feller-buncher.

3. First, PL's HCP includes scant 30 foot buffer zones and those are only around fish bearing class I streams. A figure sorely lacking by scientific standards such as FEMAT which call for a minimum of 300 feet. As far as implementation goes, in areas where they have already logged down to the creek, they have set up 30 foot buffers (a moot point since the trees are already gone). But in areas such as Bell Creek, they have clear-cut the forest right down to the water's edge despite their agreement in principle on Feb. 27th to revise existing THPs to include the scant 30 foot buffer.

4. Actually, it's an economics-based approach. Plunder the forest to pay the junk bond debt. In order to mislead the reader into thinking that there would be more mature forests on PL property in the future, the draft SYP refers to 50 year old trees as late seral stage. A term scientists reserve for trees about 130 years old and up. So much for good science.

5. Remember the Thanksgiving Day Massacre of 1992? In flagrant violation of a direct and explicit court order, Maxxam/PL went on a rampage in Owl Creek hoping activists and CDF regulators would be at home eating turkey. The pace of logging was so intense that many of the ancient redwoods shattered into bits when they hit the forest floor. This shows that the purpose was not to get the cut out but to cut out the heart of the old growth grove, a known sanctuary for marbled murrelet and other endangered species so they wouldn't turn up in future surveys. With no endangered species, they would be free to clear cut the entire grove. So much for resource protection.

6. In 1995 PL President John Campbell said "The only people who care about saving Headwaters are 50 or 60 radical activists." A week later, Earth First! activist Judy Bari presented him with 12,000 signatures calling for saving Headwaters. Yet the rhetoric lives on.

7. What was the Company's response to the residents of Stafford who lost their homes in a mud slide which originated on a PL clear cut? Essentially; it's your fault. You shouldn't have built your house downhill from our property. Then there's the company's belligerent disregard for law and order. In January, when the CDF was considering revoking PL's timber operator's license, the company was overzealous (at least in words) about obeying the law. But in June with license in hand, they thumbed their nose at Superior Court Judge Marilyn Miles opting to pay a measly \$13,000 fine and be free to break the law in the future rather than be subject to 3 years of probation.

As former (14 year) Pacific Lumber employee Marian Del Biaggio put it, "We're tired of hearing Hurwitz cry about his property rights. What about us, the people who live here, and our rights. What is Hurwitz going to do to make sure our property and communities are not destroyed in his drive for profit?"

8. Land slides are just one facet of the company's rapacious policies. Others include excessive road building, being the largest user of chemical herbicides in the County, mixing those herbicides with diesel fuel, yarding logs over the forest floor destroying every living thing along the way, trashing our county roads by roaring down them with forty ton loads even during winter storms, flagrant disregard for sensitive and endangered species, and destruction of a once thriving north coast fishing industry.

Let's not forget the over 250 known criminal violations of the forest practices act since 1995. These are only the ones that were discovered and written up. With CDF overseers shamefully understaffed, the actual number is likely in the thousands.

9. That's watershed (singular). To date, only Freshwater residents have suffered the frustration of this single meeting, organized by the California Forestry Association (the corporate timber lobbying group). In this meeting, called "The Neighbor to Neighbor Series," only those who could verify their residence in Freshwater with valid ID were allowed to attend. Even the experts chosen by those residents to shed some light on the issues were shut out.

10. Those who braved the Freshwater meeting dismissed it as a public relations ploy. Moreover, the important thing is not to merely answer their questions but to take action and address their concerns.

11. Emphasizing "on a local level." In other words, take this media circus somewhere else. We don't need any more scrutiny. Who knows, one of them might ask a tough question.

12. The future of PL is a fiber farm. Anyone who doesn't believe this should read the SYP. The old PL produced a unique product in the world; high quality lumber and forest products using skilled labor and lots of it, paying fair wages and managing for the future. The future is fast growing trees mowed down in their youth to make particle board, raw fiber, and hog fuel. Worst of all, it will have to compete against low wage countries such as China, Mexico, and Indonesia.

13. Fiber farm is to forest as airline food is to fresh vegetables.

14. PL's HCP is to science as fiber farm is to forest. I hope you're preparing your comments.

15. Turn in your chainsaws boys. Here's your weed whacker. And don't expect a living wage for this low skill work or we'll replace you with migrant workers as we have already begun doing. The old PL was labor intensive, the new PL is capital, chemical, propaganda, and machinery intensive. As far as numbers of employees, PL had about 900 just prior to the 1986 takeover by Maxxam. By 1994 it was about 1300. Now, due to the fever-pitch harvesting, it's around 1800. By the Company's own estimates, they expect employment to dwindle to a skeleton crew of 844 in the next century as labor intensive products are replaced and the old growth mills are closed. As songwriter Darryl Cherney said in 1986; "Where are we gonna work when the trees are gone?"

16 You're welcome Mary. Always glad to set the record straight.

Excerpts from PL Resource Manager Tom Herman (PL's head forester) to the Board of Forestry 7-8-98:

"We believe that our commitment to the resource is evident by the condition of our lands."

"We do not believe that (the Board of Forestry has) been shown clear evidence that the condition of our streams has been caused by our management."

"Pacific Lumber is implementing creative, state of the art forest management."

"The Company is willing to be responsive and adaptive to developing technology and understanding regarding forest resource management."

"We at Pacific Lumber are committed to constant improvement of our land stewardship and we're proud of what we've been doing."

"(The condition of our lands is) closer to what has been touted as the desired future condition by ecologists than any other large industrial ownership."

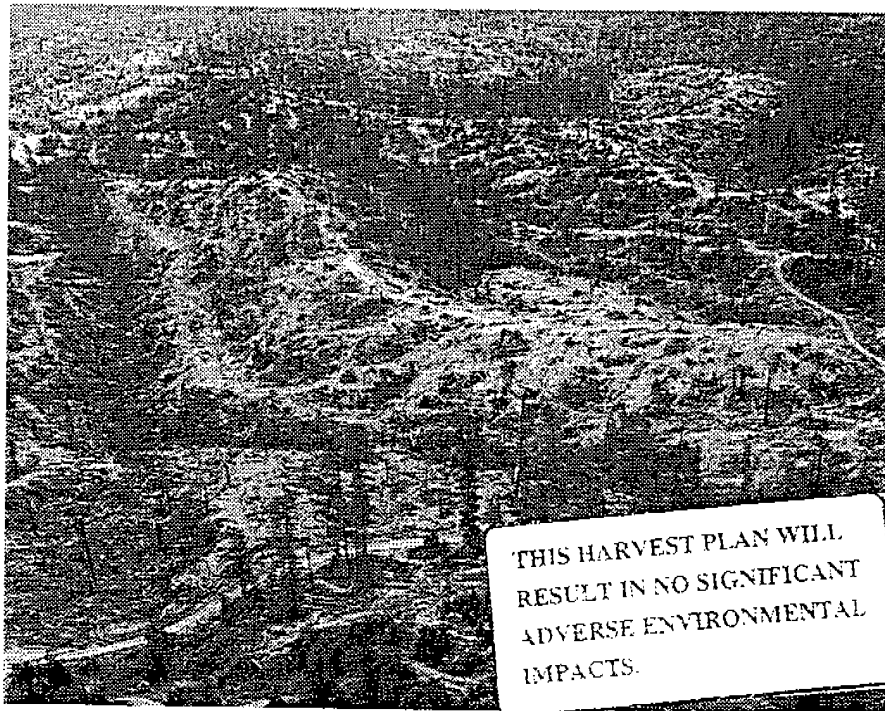
"Many urge you to believe that several watersheds on our property and other areas of the North Coast are severely degraded."

"With respect to degradation, we do not believe that you have been shown clear evidence that these streams are outside the range of what is normal in this region for this type of geology."

Lies, Loopholes & Lip Service:

the rhetoric of
Pacific Lumber ...

...in black and white.

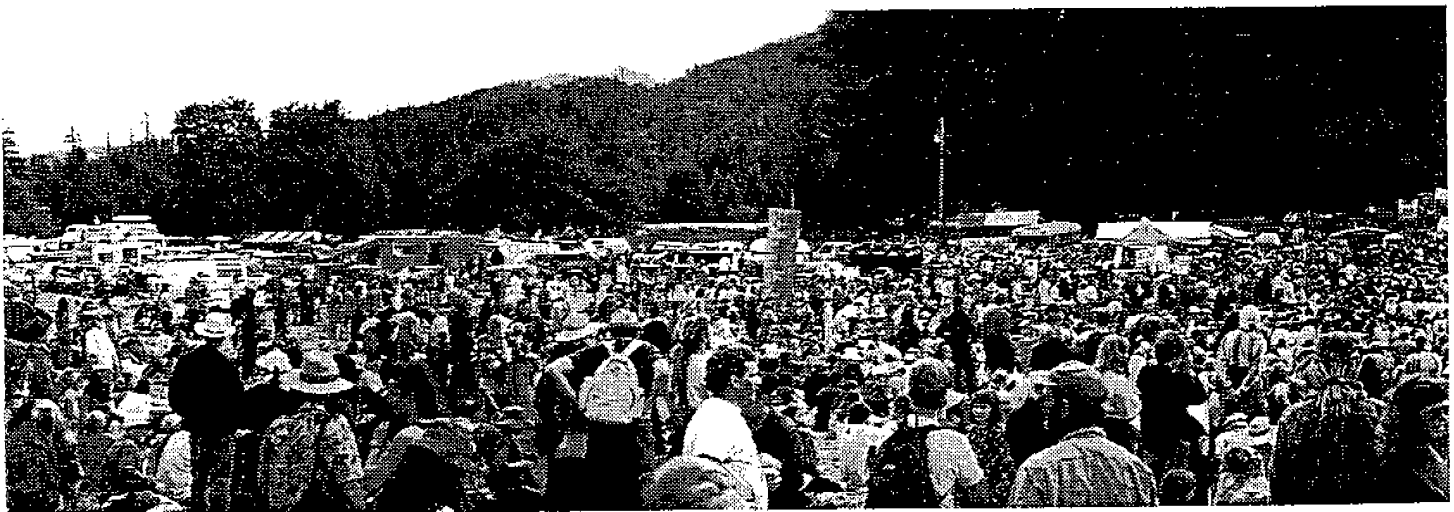


IN 1986, THE PACIFIC LUMBER COMPANY OF HUMBOLDT COUNTY, CALIFORNIA WAS THE SUBJECT OF A HOSTILE TAKEOVER BY THE HOUSTON-BASED MAXXAM GROUP. SINCE THEN, LIES AND MISINFORMATION HAVE BEEN A WAY OF LIFE FOR PACIFIC LUMBER/MAXXAM. THIS COMPILATION MAKES ITS CASE IN GRAPHIC DETAIL.



A 1996 "Save Headwaters Forest" rally, attended by about 5,000 people, including over 1,000 people who chose to be arrested for crossing a Pacific Lumber property line.

PHOTO: CYNTHIA ELKINS.



1997 "Save Headwaters Forest" Rally in Stafford, CA. Attendance was approximately 5,000 people.

**"The only people who care
about saving Headwaters
are 50 or 60 radical
activists."**

-JOHN CAMPBELL, PRESIDENT
PACIFIC LUMBER
1995



**"We believe that the path that
we have chosen to follow now
will help us regain the trust
of our neighbors."**

- MARY BULLWINKEL, 1998

Stafford in Humboldt County, CA

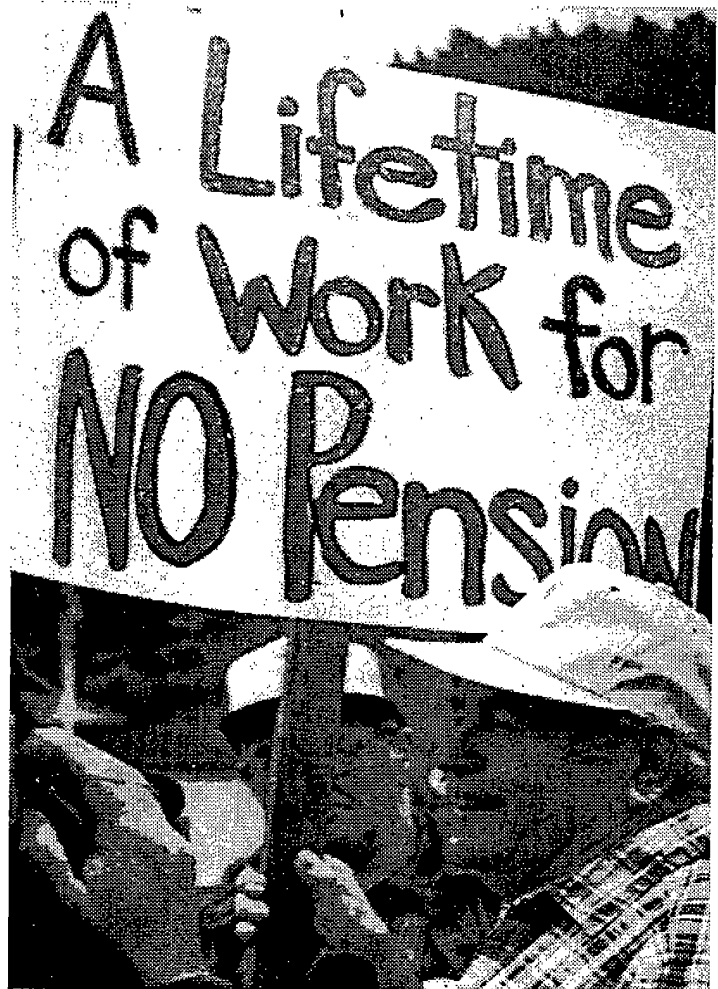
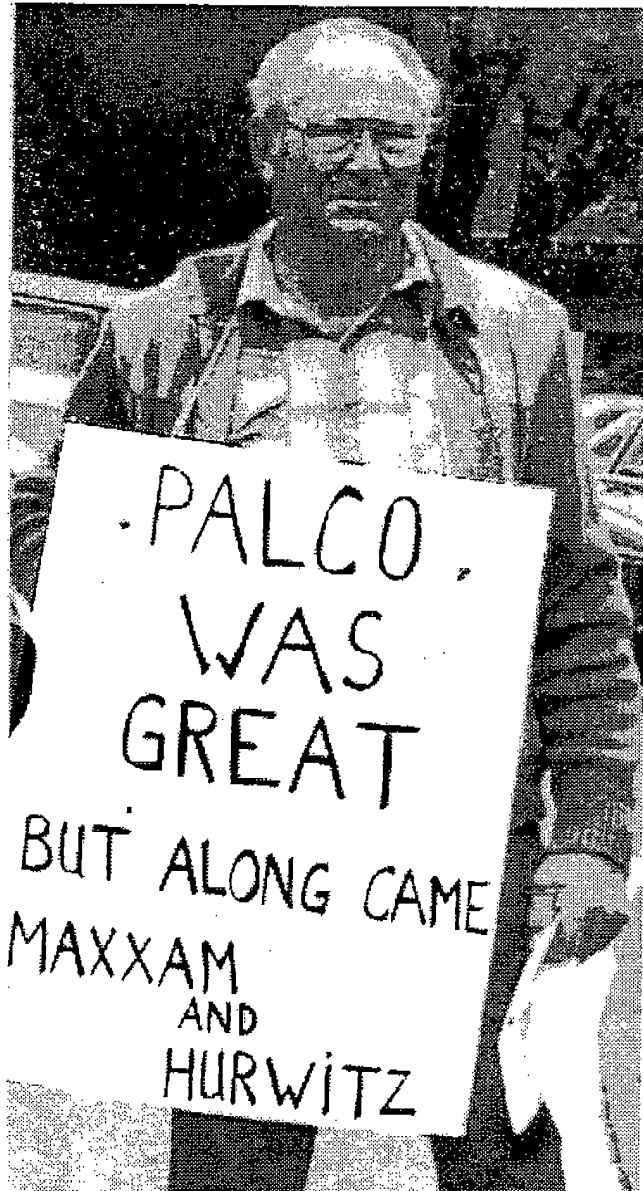
PHOTO: D. FORTSON



This mudslide originated on a PL clearcut and destroyed seven homes in Stafford, CA. PL has officially denied responsibility leaving residents and taxpayers to pay for cleanup.

"...I see us continuing our contribution to the economic well-being of the North Coast."

- MARY BULLWINKEL, 1998



Hurwitz raided \$50 million from the PL Pension fund to pay his junk bond debt. Workers were outraged.

"He who has the gold, rules"

- CHARLES HURWITZ,
CEO MAXXAM, 1986



Charles Hurwitz



Future trends: The Company intends to log about 26% of its holdings in the next decade.

**"We are extremely
serious about our
commitment to be a
good neighbor, and
to be a good steward
of the land."**

- PL SPOKESWOMAN MARY BULLWINKEL, 1998



"Finally, the court finds that Pacific Lumber's expert witnesses, Speich and Kerns, lack objectivity and credibility. Both Speich and Kerns have been paid substantial sums of money to conduct marbled murrelet research on behalf of the company, and to act as advocates for Pacific Lumber in various forums."

- JUDGE LOUIS C. BECHTLE

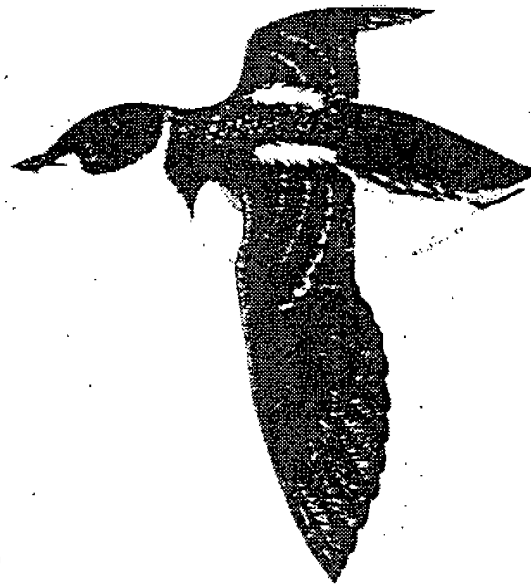
MARBLED MURRELET VS. PACIFIC LUMBER

(U.S. COURT NORTHERN CALIFORNIA

DIVISION #C-93-1400-LCB)

OPINION PARAGRAPH 87

1995



Note: Speich's and Kerns' firms

received over \$12 Million from PL to

produce flawed marbled murrelet surveys

which Judge Bechtle found "were not conducted by

an independent and impartial third party using the scientific method."



**"We believe our commitment
to the resource is evident
from the condition
of our lands."**

- TOM HERMAN, 1998

"Many urge you to believe that several watersheds on our property and other areas of the North Coast are severely degraded."

-TOM HERMAN,
HEAD FORESTER,
PACIFIC LUMBER. 1998



Jordan Creek slide, 1997

"With respect to degradation, we do not believe that you have been shown clear evidence that these streams are outside the range of what is normal in this region for this type of geology."

- TOM HERMAN, 1998



Shively, 1997



Erosion from intensive logging near Jordan Creek has destroyed salmon spawning habitat over much of PL's holdings

**"We're confident that
the science-based
approach to managing
our property will put us in a
lead role in resource
protection."**

- MARY BULLWINKEL, 1998



Future trends: The Company intends to log about 26% of its holdings in the next decade.

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to be a good steward
of the land.”**

- PL SPOKESWOMAN MARY BULLWINKEL, 1998



**This is a small sampling of the pattern
of deception practiced by the Pacific Lumber
Company as it destroys our communities
and sucks the life blood out of our hillsides.
Only your continued involvement and support
can end the devastation and bring
about change.**

